

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, CALCUTTA

O.A. No. 1115/97

Date of Decision : This the 28<sup>th</sup> day of Jan., 2005

FORAM :

Hon'ble Mr. D.C.Verma, Vice Chairman(J)

Hon'ble Mr. G.R.Patwardhan, Member(A)

Shri K.U. Pramanik  
Working as U.G.S. Bhogudih  
Divisional Commercial Manager,  
South Eastern Railway, Adra,  
Residing At : Upper Kulti,  
Tetulpukur, Via-Acharya Bari,  
P.O. Kulti, Dist. Burdwan.

.....APPLICANT

Advocate : Mr. T.K.Biswas

v/s.

1. Union of India, through  
The General Manager,  
South-Eastern Railway,  
Garden Reach, Calcutta,
2. The Chief Personnel Officer,  
South Eastern Railway, Garden Reach  
Calcutta.
3. The Divisional Railway Manager,  
South-Eastern Railway Adra,
4. The Sr. Divisional Commercial -  
Manager, South Eastern Railway,  
Adra,
5. The Sr. Divisional Personnel Officer  
South Eastern Rly., Adra. .... RESPONDENTS

Advocate : Mr. A.K.Dutta

— — O R D E R — —  
( Per Mr. D.C.Verma )

By this O.A. the applicant has prayed for grant of promotion to the grade of Rs. 2000-3200/- from the date his junior Shri K.C.Goswami was given such promotion and <sup>to</sup> continue ~~of~~ other consequential benefits thereof. The applicant has also prayed for fixation of pay as per his seniority in the grade of Rs. 2000-3200/- vis-a-vis Shri K.C.Goswami.

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2. The facts, in brief, is that the applicant and Shri - K.C.Goswami joined the Department at the initially cadre stage as Commercial Clerk (Goods). The applicant was senior to K.C.Goswami. Subsequently under the restructural<sup>Final</sup> scheme the applicant was not granted the scale of Rs. 1400-2300/- & 1600-2660/- with effect from 1984 due to currency of penalty. Subsequently, however, the respondents gave promotion to the applicant in the scale of Rs. 1400-2300/- w.e.f. 1.1.84 under cadre restructural scheme. The grievance of the applicant is that though K.C.Goswami who was junior to the applicant was granted the scale of Rs. 2000-3200/- w.e.f. 1993, the applicant has been granted the said scale from 1996. Hence this O.A.

3. The respondents' case is that in the entry grade of Commercial Clerk (Goods), the applicant was senior to K.C.-Goswami. For suitability test for promotion to the scale of Rs. 1200-2040/-, the applicant was called to appear in Feb. 1977. The applicant failed to appear in the said test whereas K.C.Goswami appeared and cleared the test. Hence K.C.Goswami was promoted and he became senior to the applicant. The applicant cleared the said test subsequently and was promoted on 15.09.1978. The seniority list of the post of GC(B) in the scale of Rs. 330-560/- ( 1200-2040 RP ) was issued on 1.1.1982. In that seniority list the applicant was at Sl. No. 43 whereas K.C.Goswami was at Sl.No. 33. This seniority was never challenged by the applicant and the applicant remained junior to K.C.Goswami under cadre restructuring scheme. The applicant and K.C.Goswami became due for promotion to HD GC Grade of Rs. 425-640 ( 1400-2300/- RP ) w.e.f.1.1.84 Shri Goswami was given the promotion while the applicant was not given the said benefit as he was undergoing punishment under D & A Rules. On expiry of currency of the punishment,

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the applicant was given that benefit w.e.f. 1.9.87, with proforma fixation w.e.f. 1.1.84. The actual benefit of fixation on promotion in the scale of Rs. 1400-2300/- was given to the applicant w.e.f. 1.9.87, the date on which the penalty period was over. Prior to this date, K.C.Goswami promoted to the scale of Rs. 1600-2660/- w.e.f. 30<sup>th</sup> May 1986 as still appear from the seniority list as on 31.12.87 where the name of K.C.Goswami appears at Sl. No. 15. The applicant was promoted to this grade by a subsequent date. Mr. Goswami was promoted to the CGS post in the scale of Rs. 2000-3200/- w.e.f. 23.05.91 whereas the applicant was given grade of Rs. 1600-2660 w.e.f. 1.3.93 and the grade of Rs. 2000-3200/- w.e.f. 26.05.96. It is also submitted that the applicant was undergoing several punishments.

4. In view of the above facts it is submitted that the applicant has no case to claim parity with K.C.Goswami.

5. Counsel for the parties have been heard at length. The main grievance of the applicant is that once the applicant was granted benefit of restructuring w.e.f. 1.1.84 in the scale of Rs. 1400-2300/- the applicant got his seniority back and consequently all subsequent promotions/benefits as was given to K.C.Goswami, should have been given to the applicant w.e.f. the same date.

6. Learned counsel for the respondents, on the other hand, has submitted that though initially K.C.Goswami was junior to the applicant, K.C.Goswami became senior to the applicant in the grade of Rs. 1200-2040 as the applicant failed to appear in the suitability test. Thereafter the applicant remained junior to K.C.Goswami. Besides that the applicant was undergoing several punishments which

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delayed grant of benefit of restructuring. However, the benefit of restructuring in the scale of Rs. 1400-2300/- was granted to the applicant w.e.f. 1.1.84, but it was by way of prororma promotion. Actually benefit was given from 1.9.87 because of currency of penalty period.

7. This fact is not denied that the applicant became junior in the scale of Rs. 1400-2300/- because the applicant failed to appear in the suitability test. 1982 seniority list was issued on 1.1.82 for the scale of Rs. 1200-2040 which shows that though the name of K.C.Goswami was at sl. no. 35, the name of the applicant was at sl. no.43. The said seniority was never challenged by the applicant. The said seniority can not now, after gap of about 20 years, be assailed by raising the plea that the scale of Rs. 1400-2300 was granted to the applicant from 1.1.84. The respondents' reply shows that the applicant was undergoing punishment and the currency of punishment period was over on 1.9.87. However, the respondents decided to grant benefit of restructuring scheme in the scale of Rs. 1400-2300/- to the applicant w.e.f. 1.1.84, though on notional basis. This act of respondents would not, however, change the seniority position of the applicant vis-a-vis K.C.Goswami who became senior to the applicant as per the seniority list of 1.1.82. Mere grant of scale of Rs. 1400-2300/- from the same date would not change the seniority position amongst the employees who are granted the said scale. The submission of learned counsel for the applicant, if accepted, would change the seniority position which was settled on 1.1.82. The main base for grievance and for claim of scale of Rs. 2000-2300/- is based on seniority position of the applicant vis-a-vis K.C.Goswami. As it is found that the applicant became junior to K.C.Goswami and remained so after 1978, the applicant can not claim parity of promotion/scale vis-a-vis K.C.Goswami.

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The claim of the applicant with regard to grade and seniority has not merit and is to be rejected.

8. In view of the discussions made above, the Q.A. is dismissed with no order as to costs.

( G.R.Patwardhan )  
Member (A)

( D.C.Verma )  
Vice Chairman (J)

CMJ/